

AMENDED STANDING ORDER 2-99. PROCEDURE FOR SUBMISSION AND DISPOSITION OF CERTAIN POST-HEARING MOTIONS

Pursuant to Rule 78 of the Rules of Civil Procedure and Domestic Relations Procedure, the provisions of this Standing Order shall apply to the following post-hearing motions:

- i) to Amend Findings of Fact (Rule 52)
- ii) to Amend Conclusions of Law (Rule 52)
- iii) for New Trial (Rule 59)
- iv) to Amend Judgments (Rule 59 (e))
- v) for Relief from Judgment and Order (Rule 60)

The purpose of this Standing Order is to set out the procedures by which relief pursuant to subparagraphs i) through v) above, is sought. This Standing Order does not create any substantive right to relief, other than as set forth above.

Motions for post-hearing relief should be titled to reference the rule the moving party asserts is applicable to the relief requested. Even if the rule is not specifically identified, the motion shall be disposed of by the Court in accordance with the factors and time limitations set out in the applicable Rule specified in subparagraphs i) through v) above, since no other relief is available. The provisions of this Standing Order shall not apply to the following:

- i) Objections to a Judgment of Divorce Nisi- pursuant to Rule 58(c) of the Rules of Domestic Relations Procedure
- ii) Motions to Stay Proceedings to Enforce a Judgment (Rule 62)

(a) Submission of the Motion and Opposition Thereto.

(1) *Submission of Motion.* The moving party shall serve with the motion a copy of the order or judgment at issue and a concise statement of facts and law in support of why the motion should be granted. The statement shall be no longer than five (5) pages and shall be signed under the penalties of perjury. All documents required to be served with the motion shall be filed with the court on the date of service or within five (5) days after service. Compliance with this paragraph is compliance with the "reasonable time" provisions of Mass.R.Civ.P. 5(d)(1) and Mass.R.Dom. Rel.P. 5(d)(1).

(2) *Submission of Statement in Opposition or Support of the Motion.* Except by leave of court, upon motion, within ten (10) days after service of the motion, the non-moving party(ies) opposing or supporting the motion may file and serve a concise statement of facts and law in opposition to or in support of the motion. Said statement shall be no longer than five (5) pages, should explain why the motion should or should not be allowed, and shall be signed under the penalties of perjury.

(3) *Additional Papers.* With the exception of the certificate of service or, when applicable, the motion to extend the time for filing the statement in opposition or support

of the motion provided for under paragraph (a)(2) of this rule, papers not served with the motion or statement in opposition or support may be filed only with leave of court.

(4) *Form of the Motion.* The moving party shall indicate in the title of the motion the name of the Justice who decided the original order or judgment and identify the applicable rule.

(5) *Filing the Motion and Statement in Opposition or Support by Mail.* If the motion and/or the statement in opposition or support is filed by mail, the bottom left-hand corner of the envelope should clearly indicate "Post-Hearing Motion".

(b) Hearing on Motion.

(1) *Marking.* No party shall mark the motion for hearing. No later than twenty (20) days from the date the motion is filed, the motion, supporting papers and any statement(s) of opposition or support shall be transmitted to the justice who decided the original order or judgment, unless the court has extended the time for filing the statement in opposition or support of the motion. In such case, the motion and supporting papers shall be transmitted to the justice who decided the original order or judgment within five (5) days from the date the certificate of service is filed with the court on the statement in opposition or support of the motion. In the event the court believes that a hearing is necessary or helpful to the disposition of the motion, the court will set the time and date for the hearing and will notify the parties of that date and time.

(2) *Request for Hearing.* If a party wishes to request a hearing on the motion, said request shall be filed and served with the motion or the statement in opposition or support of the motion. A request for a hearing shall set forth any statute, rule of court or case law which, in the opinion of the submitting party, mandates a hearing on the motion. After reviewing the motion, the statement in opposition or support of the motion, and the request for hearing, the court will determine whether a hearing should be held and, if a hearing is to be held, will notify the parties of that date and time. Failure to request a hearing shall be deemed a waiver of any right to a hearing afforded by statute, court rule or case law.

(c) Disposition of Motion.

Motions which are not set down for hearing shall be decided on the written submissions filed in accordance with this order.

(d) Sanction for Noncompliance.

Failure to comply with any and all of the provisions of this order may result in the Court's refusal to entertain the motion and/or the imposition of sanctions and/or costs against a party or his/her counsel.

Adopted effective October 1, 1999. Amended May 23, 2012, effective July 2, 2012.